

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6963

BILL NUMBER: SB 519

NOTE PREPARED: Jan 13, 2005

BILL AMENDED:

SUBJECT: Lake and boating issues.

FIRST AUTHOR: Sen. Weatherwax

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill extends the definition of "taxable marine facility" for purposes of motor fuel taxes to facilities located on any body of water under the state's jurisdiction. The bill requires a child less than 13 years of age to wear a personal flotation device while on a boat. It requires a boat or personal watercraft that is towing a person to have enough space for the operator, observer, and person being towed. The bill requires that a person who performs certain activities concerning water levels, shorelines, and lake beds along a lake or within ten feet of a lake obtain a permit from the Department of Natural Resources (DNR). It directs the Natural Resources Commission to adopt rules. It also makes conforming changes. The bill repeals the former laws concerning permits to change water levels, shorelines, and lake beds. (The introduced version of this bill was prepared by the Natural Resources Study Committee.)

Effective Date: July 1, 2005.

Explanation of State Expenditures: *DNR Permits and Adopting Rules.* The bill adjusts the conditions under which a person must obtain a DNR permit in order to excavate; fill; or place, modify, or repair a temporary or permanent structure over, along, or lakeward of the shoreline or waterline of a public freshwater lake. The bill also requires the Natural Resources Commission to adopt rules to implement the provisions of the bill. The DNR and the Commission will be able to implement the above without additional funding.

Explanation of State Revenues: *DNR Permits.* The bill adjusts the conditions under which a person must obtain a DNR permit in order to excavate; fill; or place, modify, or repair a temporary or permanent structure over, along, or lakeward of the shoreline or waterline of a public freshwater lake. If the lowest point of a structure or excavation would be below the elevation of the shoreline or waterline, the person must not place

a permanent structure or conduct an excavation within 10 feet landward of the shoreline or waterline, as measured perpendicularly from the shoreline or waterline of a public freshwater lake.

Under existing law, seawalls can be installed landward within 10 feet of the shoreline. The installation of concrete seawalls within 10 feet of the shoreline can result in the tide washing away the soil and habitat between the seawall and the shoreline. As a result, the shoreline becomes the seawall. In this case, the shoreline is changed without a permit. The bill may result in the DNR issuing additional permits.

The fee for the permit remains at \$100. Fee revenue could increase as a result of this bill. Fees collected from permits are deposited in the Land and Water Resources Fund, which is used to fund local soil and water conservation programs; conduct research necessary for beneficial development of water resources; and to offset the costs to the Division of Water of administering the permit program.

Taxable Marina. The bill changes the definition of “taxable marina” from a marine facility located on an Indiana lake to a marine facility located on a body of water subject to the jurisdiction of the state. Under existing law, marine facilities collect \$0.18 per gallon of gas sold at a marine facility. If the marine facility is located on an Indiana lake the revenue is deposited in the Fish and Wildlife Fund that is used primarily to finance the DNR Divisions of Law Enforcement and of Fish and Wildlife and to maintain the automated point-of-sale licensing system. If the tax is collected by a marine facility at a body of water other than a lake, such as a reservoir, the tax revenue is deposited in funds that pertain to highways (Motor Vehicle Highway Account, State Highway Fund, Highway Road and Street Fund, Special Distribution Account, State Highway Road Construction and Improvement Fund, and Motor Carrier Regulation Fund). Approximately 50 marine facilities operate on a body of water not defined as a lake.

Boating Issues. This bill requires a child less than 13 years of age to wear a personal flotation device while on a boat. The bill requires a boat or personal watercraft that is towing a person to have enough space for the driver, observer, and person being towed. Violations of either of the two provisions constitute a Class C infraction. If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Boating Issues.* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected:

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Bernadette Bartlett, 317-232-9586.